

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

LAROSHA D. STARK,

Plaintiff,

v.

GUADALUPE GOMEZ and EVANGELINA
SEPULBEDA NAVARRO,

Defendants.

Case No. 2:13-cv-00857-MMD-GWF

ORDER

This case comes before this Court through Defendants Guadalupe Gomez and Evangelina Sepulveda Navarro's Notice of Removal. (Dkt. no. 1.) Plaintiff Larosha D. Stark filed this action on February 27, 2013, in state court in Clark County, Nevada, after an alleged automobile accident on March 4, 2011, between the parties.


On May 15, 2013, Defendants removed the suit to this Court pursuant to 28 U.S.C. § 1332. (See dkt. no. 1.) Based on the Court's review of the petition, questions exist as to whether the Court has jurisdiction to hear this claim, and whether the removal was defective. See *United Investors Life Ins. Co. v. Waddell & Reed Inc.*, 360 F.3d 960, 967 (9th Cir. 2004) (stating that "the district court had a duty to establish subject matter jurisdiction over the removed action sua sponte, whether the parties raised the issue or not"). The Complaint seeks damages in excess of \$10,000.00. Defendants claim this case is nevertheless removable because Stark made a demand of \$300,000.00, equal to Defendants' insurance policy limits. (See dkt. no. 1 at ¶ 7.) Nowhere in Stark's

1 Complaint is such a demand alleged, and Defendants have provided no evidence
2 supporting this assertion. A defendant bears the burden of demonstrating by a
3 preponderance of the evidence that the amount in controversy exceeds \$75,000.00.
4 See *Guglielmino v. McKee Foods Corp.*, 506 F.3d 696, 699 (9th Cir. 2007). “[T]he
5 defendant must provide *evidence* establishing that it is ‘more likely than not’ that the
6 amount in controversy exceeds that amount.” *Sanchez v. Monumental Life Ins. Co.*, 102
7 F.3d 398, 404 (9th Cir. 1996) (emphasis added). When, as here, it is not facially
8 apparent from the complaint whether the jurisdictional amount is in controversy, “the
9 court may consider facts in the removal petition, and may ‘require parties to submit
10 summary-judgment-type evidence relevant to the amount in controversy at the time of
11 removal.’” *Singer v. State Farm Mut. Auto. Ins. Co.*, 116 F.3d 373, 377 (9th Cir. 1997).
12 Thus, in order to assure itself of its jurisdiction to preside over this Court, Defendants are
13 ordered to provide summary-judgment-type evidence in support of their statement
14 regarding removal due June 2, 2013. (See dkt. no. 3.)

15 The Court also notes that the removal notice was filed more than 30 days after
16 Stark filed her Complaint. Removal is proper to federal court “within 30 days after the
17 receipt by the defendant, through service or otherwise, of a copy of the initial pleading
18 setting forth the claim for relief upon which such action or proceeding is based, or within
19 30 days after the service of summons upon the defendant if such initial pleading has
20 then been filed in court and is not required to be served on the defendant, whichever
21 period is shorter.” 28 U.S.C. § 1446(b)(1). Defendants’ Notice states in a conclusory
22 fashion that it is timely, but does not provide any statement explaining how it complies
23 with § 1446. As ordered by the Court in its May 15, 2013, Minute Order, Defendants are
24 also instructed to discuss the timeliness of their removal in their statement.

25 IT IS SO ORDERED.

26 DATED THIS 30th day of May 2013.

27 
28 MIRANDA M. DU
UNITED STATES DISTRICT JUDGE